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Congo - 1961

26 April - 5 May

a.)

Kasavubu, Joseph (President of Congo)

- 2 letters from D.M.

26 April 1961  
(45th Meeting)

Draft Letter from the Secretary-General to President Kasavubu

1. I have the honour to refer to the Accord de principe relating to the Security Council resolution of 21 February 1961 which was accepted by your Excellency and Mr. Bomboko on the one hand and by my representatives, Mr. Gardiner and Mr. Nwokedi, on the other hand, at Leopoldville on 17 April 1961. You will recall that it was necessary for my representatives, in view of their terms of reference, to reserve to me the right of final approval of the agreement on the side of the United Nations.
2. I have now heard from my representatives a full account of the discussions leading to the agreement and have considered with them and with my other advisers all of its provisions and implications. May I say that I have been encouraged by the results of the discussions which took place between you and your colleagues and my representatives in terms not only of the substance of the agreement itself, but also of the spirit of constructive co-operation and mutual trust which my representatives have reported to me as having characterised the discussions.
3. I understand and appreciate that the agreement represents, on the side of the Republic of the Congo, the full and free exercise of the sovereign rights of the Republic both in recognizing its obligations as a Member State of the United Nations, particularly in respect of the resolution concerned, and in determining the appropriate methods of carrying out those obligations. On the side of the United Nations, the agreement indicates the intention and the capacity of the Organization to afford assistance to the Republic of the Congo in meeting those same obligations.
4. The text of the agreement leaves a considerable measure of initiative for the discharge of the obligations of the Republic of the Congo under the Security Council resolution to you, Mr. President. The execution of the

relevant parts of the resolution, which is by its very nature mandatory, is in that sense, therefore, dependent on your determination to co-operate fully with the United Nations. I have no doubt that you intend to do so. This assumption enables me to interpret the provisions of the Agreement which call for United Nations assistance to mean that such assistance will be given in order to facilitate your wholehearted co-operation in the implementation of the resolution. The above observation has particular reference to paragraph 3 where, in recognition of the constitutional powers which you hold, you have undertaken to re-examine the appointments of foreign civilian, military and para-military personnel made under your personal authority and to take the necessary decisions compatible with the interest of the Republic of the Congo. In this connexion I wish to recall that subsequent to the initialling of the Agreement, the General Assembly adopted resolution of 17 April 1961 (A/RES/1600 (XV)) in which, among other things, it "urges the Congolese authorities to co-operate fully in the implementation of the resolutions of the Security Council and of the General Assembly and to accord all facilities essential to the performance by the United Nations of functions envisaged in those resolutions."

5. With these understandings I am pleased to signify my approval of the agreement. From the statement which you made on 17 April in announcing to the Press the initialling of the agreement, I feel certain that you are convinced, as I am, that the modalities of its application should be jointly studied with the least possible delay and in the same spirit in which the agreement was negotiated. From the point of view of the United Nations, I should like in particular to see the precise forms and procedures of the

assistance for which you are calling upon the Organisation agreed upon, and the necessary arrangements put in hand, at an early date.

6. To this end I am asking Mr. Gardiner to return immediately to Leopoldville to undertake with you and your colleagues the studies concerned. He should arrive on Wednesday, 26 April. I am confident that you will again afford him your fullest co-operation, and I assure you of his, in all matters connected with the agreement. I should like to add that I have also taken note of certain other points to which you referred in your press conference of 17 April, and that I have instructed Mr. Gardiner to make himself available to you for discussion, if you so wish, of such of these points as you may think could usefully be the subject of assistance or advice on the part of the United Nations.

7. May I suggest, finally, that the forms of assistance by the United Nations to the Republic of the Congo which are envisaged in the agreement make it more desirable than ever that the relationships between the Republic and the Organisation, in respect of all of the activities and operations of the latter within the Congo, should be placed on a properly defined footing. In this connexion, I wish to recall our previous attempts to negotiate a status agreement and to refer to my message to you through my Special Representative, of 27 March 1961. Mr. Gardiner is authorised to take up this matter again with you, in consultation with my Special Representative.

5 May 1961

Final text of letter of 26 April 1961 from the Secretary-General to President Kasa-Vubu concerning the agreement relating to the Security Council Resolution of 21 February 1961.

1. I have the honour to refer to the Accord de principe relating to the Security Council resolution of 21 February 1961, the text of which, for confirmation, is annexed to this letter. You will recall that it was necessary for my representative, in view of their terms of reference, to reserve to me the right of final approval of the agreement on the side of the United Nations.
2. I have now heard from my representative a full account of the discussions leading to the agreement and have considered with them and with my other advisers all of its provisions and implications. May I say that I have been encouraged by the results of the discussions which took place between you and your colleagues and my representatives in terms not only of the substance of the agreement itself, but also of the spirit of constructive co-operation and mutual trust which my representatives have reported to me as having characterized the discussions.
3. I understand and appreciate that the agreement represents, on the side of the Republic of the Congo, the full and free exercise of the sovereign rights of the Republic including the recognition of its obligations as a Member State of the United Nations, particularly in respect of the resolution concerned. On the side of the United Nations, the agreement indicates the intention of the Organization to afford assistance to the Republic of the Congo in meeting those same obligations. It is worth noting that in striking the balance between your obligations and the intention of the United Nations, nothing has been included in the

Agreement that could be construed as being at variance with the terms and meaning of the Security Council resolution concerned. Thus the agreement, without derogating from the resolution, represents a valuable first step towards its implementation in cooperation between you, Mr. President, and the United Nations.

4. The text of the agreement leaves a considerable measure of initiative for the discharge of the obligations of the Republic of the Congo under the Security Council resolution to you, Mr. President. The execution of the relevant parts of the resolution, which is by its very nature mandatory, is in that sense, therefore, dependent on your determination to co-operate fully with the United Nations. I have no doubt that you intend to do so. This assumption enables me to interpret the provisions of the Agreement which call for United Nations assistance to mean that such assistance will be given in order to facilitate your wholehearted co-operation in the implementation of the resolution. The above observation has particular reference to paragraph 3 where, in recognition of the constitutional powers which you hold, you have undertaken to re-examine the appointments of foreign civilian, military and para-military personnel made under your personal authority and to take the necessary decisions compatible with the interest of the Republic of the Congo. In this connexion, I wish to recall that subsequent to the initialling of the Agreement, the General Assembly adopted a resolution on 17 April 1961 (A/RES/1600(XV)) in which, among other things, it "urges the Congolese authorities to co-operate fully in the implementation of the resolutions

of the Security Council and of the General Assembly and to accord all facilities essential to the performance by the United Nations of functions envisaged in those resolutions."

5. With these understandings I am pleased to signify my approval of the text as initialled, which together with this letter of approval will constitute our definitive agreement.

6. Please accept, Mr. President, the assurances of my highest consideration.

Dag Hammarskjöld  
Secretary-General

Letter to President Kasavubu

5 May 1961

Dear Mr. President,

It is my sad duty to revert to the shocking events which took place at Fort Francqui on 27 and 28 April, 1961, referred to in the letter from the Acting Special Representative to you of 28 April. So far no written reply has been received to this letter, although I am aware that you, as well as others, have expressed verbally to UN representatives your abhorrence concerning the unpardonable crimes committed by the ANC in and around Fort Francqui.

Now that a thorough investigation has been made by UN officials of these events, I wish to urge you, as President of the Republic, to take urgently those steps which are imperative in the interest of justice as well as of the honour of the Congo and its armed forces, serving under you. I am sure that, in spite of your many other obligations at this time, you will condemn publicly the acts of brutal savagery which were committed by units of the ANC and will announce the precise steps to be taken in order to bring the guilty members of the ANC to immediate justice.

I must stress the fact that the UN investigation has shown that some UN soldiers known to have been shot were first disarmed, and that others who were killed were first removed from a hospital and then massacred in cold blood.

World conscience, not to mention the Republic's specific obligations towards the UN, demand that the ANC soldiers guilty of the atrocious massacre of unarmed UN men at Port Francqui should receive swift punishment.

You are also aware, I am sure, of the manifest need in this and other adequate ways to impose standards of civilized conduct on armed forces under your authority of the President.

In the light of these considerations I must, for the sake of a cause, which I know is cherished by yourself as it is by all civilized mankind, urge upon you the necessity of taking the necessary punitive measures speedily.

As it is customary in cases such as these, compensation is due to the United Nations in the interest of the families of the deceased persons. I must, therefore,

Nations in the interest of the families of the deceased persons. I must, therefore, reserve the right of the Organization to reconsider this question with a view to reaching a satisfactory settlement in the light of international practice.